

## TRANSPORTATION DEPARTMENT[761]

### Notice of Intended Action

#### **Proposing rule making related to driver improvement program and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 615, “Sanctions,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.210 and 2012 Iowa Acts, Senate File 2218, section 5.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 321.210 and 321.372(3).

#### *Purpose and Summary*

This proposed rule making amends Chapter 615 to allow a person convicted of a first offense for unlawfully passing a school bus under Iowa Code section 321.372(3) to be eligible for the driver improvement program, established in rule 761—615.43(321), in lieu of a driver’s license suspension. Currently, a person who is convicted of a first-time offense for unlawfully passing a school bus faces a 30-day driver’s license suspension.

Since the rule establishing license suspension was adopted, it has been reported to the Department that there is difficulty in charging and convicting a person of this offense because of the accompanying driver’s license suspension penalty and associated requirement that the person hold SR-22 insurance for two years following the suspension. The Department believes that allowing a person convicted of a first-time offense for unlawfully passing a school bus to attend the driver improvement program in lieu of a driver’s license suspension will address some of the difficulties with achieving convictions for this offense by offering a consequence that is more in line with other first-time traffic violation convictions. Also, allowing a person with a first-time offense to take a driver improvement course in lieu of license suspension promotes rehabilitating driver behavior, rather than simply punishing drivers or pushing drivers out of the driver system. A driver who attends a driver improvement course would still be subject to a probationary driving period and would be subject to a driver’s license sanction if the driver commits a violation during the probationary period. Furthermore, a driver who fails to attend or successfully complete the driver improvement course would be subject to a driver’s license suspension.

The driver improvement program is a course offered at community colleges throughout the state on a regular basis. The course is eight hours long with evening and weekend options available. The purpose of the course is to examine attitudes and behaviors in relation to driving, to focus on teaching drivers how behind-the-wheel attitudes affect driving behavior, and to give participants the opportunity to reflect on driving behavior and make a commitment to positively alter the participant’s daily driving experience.

#### *Fiscal Impact*

In state fiscal year 2019, the Department issued 492 driver’s license suspensions for a first-time offense of unlawfully passing a school bus. Each time the Department suspends a person’s driver’s license for this type of conviction, the Department is required to assess a \$200 civil penalty under Iowa Code section 321.218A. Furthermore, each time a person reinstates the person’s driver’s license after a suspension, the Department is required to assess a \$20 reinstatement fee under Iowa Code section 321.191. Accordingly, if 492 persons a year attended the driver improvement course in lieu of having the person’s driver’s license suspended, that would result in \$98,400 less going to the juvenile detention home fund annually

(\$200 × 492 = \$98,400) and \$9,840 less going to the statutory allocations fund annually (\$20 × 492 = \$9,840).

#### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

#### *Waivers*

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

#### *Public Comment*

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 18, 2020. Comments should be directed to:

Tracy George  
Department of Transportation  
DOT Rules Administrator, Strategic Communications and Policy Bureau  
800 Lincoln Way  
Ames, Iowa 50010  
Email: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us)

#### *Public Hearing*

A public hearing to hear requested oral presentations will be held as follows:

February 20, 2020  
10 a.m.

Department of Transportation  
Motor Vehicle Division  
6310 SE Convenience Boulevard  
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **615.17(2)“d”(1)** as follows:

(1) 30 days for a first conviction unless otherwise provided in subparagraph 615.43(1)“a”(4).

ITEM 2. Adopt the following new subparagraph **615.43(1)“a”(4)**:

(4) A person who is convicted of a first offense violation of Iowa Code section 321.372(3) or a similar ordinance of any political subdivision.